

1 BILL NO. S-85-12- 17

2 SPECIAL ORDINANCE NO. S 251-85

3 ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE  
4 TO ISSUE ITS "LIMITED OBLIGATION ECONOMIC DEVELOPMENT  
5 REVENUE BOND (ALL-PHASE REAL ESTATE COMPANY PROJECT)"  
6 AND APPROVING OTHER ACTIONS IN RESPECT THERETO

7 WHEREAS, the Fort Wayne Economic Development Commission has  
8 rendered its Project Report for All-Phase Real Estate Company  
9 Project regarding the financing of proposed economic development  
10 facilities for the Project and the Fort Wayne Plan Commission has  
11 commented favorably thereon; and

12 WHEREAS, the Fort Wayne Economic Development Commission  
13 conducted a public hearing on December 19, 1985, and also adopted a  
14 resolution on December 19, 1985, which Resolution has been  
15 transmitted hereto, finding that the financing of certain economic  
16 development facilities of All-Phase Real Estate Company complies  
17 with the purposes and provisions of I.C. 36-7-11.9 and 12 and  
18 that such financing will be of benefit to the health and welfare  
19 of the City of Fort Wayne and its citizens; and

20 WHEREAS, the Fort Wayne Economic Development Commission  
21 has heretofore approved and recommended the adoption of this form  
22 of Ordinance by this Common Council, has considered the issue of  
23 adverse competitive effect and has approved the forms of and has  
24 transmitted for approval by the Common Council the Indenture,  
25 Loan Agreement, Mortgage, Assignment of Leases and Security  
26 Agreement, Bond Purchase Contract, Guaranty, Assignment of  
27 Mortgage, Assignment of Leases and Security Agreement, Lease, and  
28 form of Ordinance; now therefore,

29 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT  
30 WAYNE, INDIANA, THAT:

31 SECTION 1. It is hereby found that the financing of the  
32 economic development facilities referred to in the Loan Agreement  
approved by the Fort Wayne Economic Development Commission and pre-



1       sented to this Common Council, the issuance and sale of revenue  
2       bonds, the loan of the proceeds of the revenue bonds to All-Phase  
3       Real Estate Company for the acquisition and construction of such  
4       facilities and the equipping thereof, and the payment of the  
5       revenue bonds by the payments of All-Phase Real Estate Company  
6       under the Loan Agreement and through the Lease with All-Phase  
7       Electric Supply Company complies with the purposes and provisions  
8       of I.C. 36-7-11.9 and 12 and will be of benefit to the health and  
9       welfare of the City of Fort Wayne and its citizens.

10       SECTION 2. The economic development facilities will con-  
11       sist of acquisition of real estate and construction of an  
12       approximate 18,000 sq. ft. building for use as a warehouse and  
13       sales distribution facility to be located at 710 Ley Road, Fort  
14       Wayne, Indiana (the "Project").

15       SECTION 3. At the public hearing held by the Fort Wayne  
16       Economic Development Commission, the Commission considered whether  
17       the economic development facilities would have an adverse com-  
18       petitive effect on any similar facilities located in the City of  
19       Fort Wayne, and found, based on special findings of fact set forth  
20       in the Resolution transmitted hereto, that the facilities would not  
21       have an adverse competitive effect. This Common Council hereby con-  
22       firms the findings set forth in the Commission's Resolution, and  
23       concludes that the economic development facilities will not have an  
24       adverse competitive effect on any other similar facilities in the  
25       City of Fort Wayne, and the facilities will be of benefit to the  
26       health and welfare of the citizens of the City of Fort Wayne.

27       SECTION 4. The substantially final forms of the  
28       Indenture, Loan Agreement, Mortgage, Assignment of Leases and  
29       Security Agreement, Bond Purchase Contract, Guaranty, Assignment  
30       of Mortgage, Assignment of Leases and Security Agreement, Lease,  
31       and form of Ordinance, approved by the Fort Wayne Economic  
32       Development Commission are hereby approved and each shall be



1 incorporated herein by reference and shall be inserted in the  
2 minutes of the Common Council and kept on file by the Clerk. In  
3 accordance with the provisions of I.C. 36-1-5-4, two (2) copies  
4 of each of said documents are on file in the office of the Clerk  
5 for public inspection.

6 SECTION 5. The City of Fort Wayne shall issue its  
7 Limited Obligation Economic Development Revenue Bond (All-Phase  
8 Real Estate Company Project) in the total principal amount of  
9 Four Hundred Twenty-Five Thousand Dollars (\$425,000.00) and  
10 maturing January 1, 1996. Said bonds are to be issued for the  
11 purpose of procuring funds to pay the costs of acquisition,  
12 construction and equipping of the economic development facilities  
13 as more particularly set out in the Loan Agreement, Indenture and  
14 Mortgage, Assignment of Leases and Security Agreement incor-  
15 porated herein by reference, which bonds will be payable as to  
16 principal, premium, if any, and interest from the payments made  
17 by All-Phase Real Estate Company or as otherwise provided for  
18 under the Loan Agreement, Indenture, and Mortgage, Assignment of  
19 Leases and Security Agreement. The bonds shall be issued in  
20 fully registered form in the initial denomination of \$425,000.00  
21 and subject to amortization as set forth in the Indenture. The  
22 bonds shall be redeemable as provided in Section 203 of the  
23 Indenture. Payments of principal and interest are payable in  
24 lawful money of the United States of America. Payments of prin-  
25 cipal and interest are payable at the principal office of the  
26 Depository. The bonds shall never constitute a general obliga-  
27 tion of, an indebtedness of, or a charge against the general cre-  
28 dit of the City of Fort Wayne, nor are the bonds payable in any  
29 manner from revenues raised by taxation.

30 SECTION 6. The Mayor and Clerk are authorized and directed  
31 to sell such bond to the purchaser thereof at a price of not less  
32 than 100% of the principal amount thereof. The bond shall bear



1 interest at a rate of interest of 75% of the Prime Rate  
2 established by a National Bank of Detroit as such rate from time  
3 to time exists, plus an additional four percentage points per  
4 annum for the first ninety-one days following the Issue Date, or  
5 at such other rate as provided for in the Indenture.

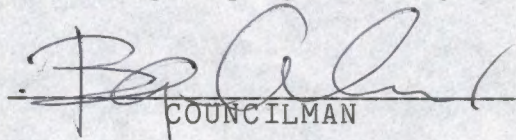
6 SECTION 7. The Mayor and Clerk are authorized and directed  
7 to execute, attest, affix or imprint by any means the City seal to  
8 these documents to be executed by the City which are approved herein  
9 on behalf of the City and any other document which may be necessary  
10 or desirable to consummate the transaction, including the bond  
11 authorized herein. The Mayor and Clerk are hereby expressly  
12 authorized to approve any modifications or additions to the docu-  
13 ments to be executed by the City which are approved herein which  
14 take place after the date of this Ordinance with the review and  
15 advice of the City Attorney; it being the express understanding of  
16 this Common Council that said documents to be executed by the City  
17 are in substantially final form as of the date of this Ordinance.  
18 The approval of said modifications or additions shall be conclusi-  
19 vely evidenced by the execution and attestation thereof and the  
20 affixing of the seal thereto or the imprinting of the seal thereon;  
21 provided, however, that no such modification or addition shall  
22 change the maximum principal amount of, interest rate on or term of  
23 the bonds as approved by the Common Council by this Ordinance  
24 without further consideration by the Common Council. The signatures  
25 of the Mayor and Clerk on the bonds may be either manual or fac-  
26 simile signatures. The Clerk is authorized to arrange for delivery  
27 of such bond to the purchaser thereof, and payment for the bond  
28 will be made to the Depositary named in the Indenture and after  
29 such payment the bond will be delivered by the Depositary to the  
30 bond purchaser. The Mayor and Clerk shall execute and the Clerk  
31 shall deliver the bond to the Depositary within ninety days of  
32 the adoption of this ordinance. The bond shall be dated the date



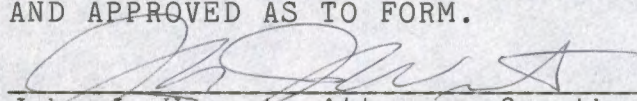
1 of authentication thereof.

2 SECTION 8. The provisions of this Ordinance and the  
3 Indenture securing the bond shall constitute a contract binding  
4 between the City of Fort Wayne and the holder of the Limited  
5 Obligation Economic Development Revenue Bond (All-Phase Real  
6 Estate Company Project) and after the issuance of said bond, this  
7 Ordinance shall not be repealed or amended in any respect which  
8 would adversely affect the rights of such holder or holders so  
9 long as said bond or the interest thereon remains unpaid.

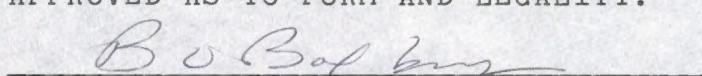
10 SECTION 9. This Ordinance shall be in full force and  
11 effect from and after its passage and signing by the Mayor.

12   
13 COUNCILMAN

14 ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION  
15 AND APPROVED AS TO FORM.

16   
17 John J. Wernet, Attorney for the  
Economic Development Commission  
Dated this 9<sup>th</sup> day of December, 1985.

18 APPROVED AS TO FORM AND LEGALITY.

19   
20 Bruce O. Boxberger, City Attorney  
Dated this 9<sup>th</sup> day of December, 1985.

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FOX RIVER BOND



Read the first time in full and on motion by E. E. Smith, seconded by R. E. Smith, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ .M., E.S.

DATE: 12-10-85

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by E. E. Smith, seconded by Delmar, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>2</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 12-23-85

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (~~GENERAL~~) (~~SPECIAL~~) (~~ZONING MAP~~) ORDINANCE (RESOLUTION) NO. D-251-85 on the 23rd day of December, 1985,

ATTEST:  
Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

(SEAL)  
Mark E. D. Smith  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day of December, 1985, at the hour of 11:30 o'clock PM .M., E.S.T.  
Sandra E. Kennedy

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 26th day of December, 1985, at the hour of 11:30 o'clock PM .M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR., MAYOR



BILL NO. S-85-12-17

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS  
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) ORDINANCE AUTHORIZING THE

CITY OF FORT WAYNE TO ISSUE ITS "LIMITED OBLIGATION ECONOMIC DEVELOPMENT  
REVENUE BOND (ALL PHASE REAL ESTATE COMPANY PROJECT)" AND APPROVING  
OTHER ACTIONS IN RESPECT THERETO

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION AND BEG  
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)  
(RESOLUTION) DO PASS DO NOT PASS WITHDRAWN

YES

NO

B. A. Eisbart  
Janet G. Bradbury  
Samuel J. Talarico

BEN A. EISBART  
CHAIRMAN

JANET G. BRADBURY  
VICE CHAIRWOMAN

SAMUEL J. TALARICO

Thomas C. Henry  
James S. Stier

THOMAS C. HENRY

JAMES S. STIER

CONCURRED IN 12-23-85

SANDRA E. KENNEDY  
CITY CLERK